

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:17-cv-07400-VEC**

Waterkeeper Alliance, Inc. et al v. U.S. Environmental
Protection Agency
Assigned to: Judge Valerie E. Caproni
Cause: 05:552 Freedom of Information Act

Date Filed: 09/28/2017
Date Terminated: 07/09/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Waterkeeper Alliance, Inc.

represented by **Mychal Robert Ozaeta**
Earthjustice (PA)
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ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
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ATTORNEY TO BE NOTICED

Plaintiff

Sierra Club

represented by **Mychal Robert Ozaeta**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Clean Water Action

represented by **Mychal Robert Ozaeta**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Environmental Integrity Project

represented by **Mychal Robert Ozaeta**
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ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. Environmental Protection Agency

represented by

Anthony Jan-Huan Sun
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/28/2017	<u>1</u>	COMPLAINT against U.S. Environmental Protection Agency. (Filing Fee \$ 400.00, Receipt Number 0208-14179069) Document filed by Waterkeeper Alliance, Inc., Environmental Integrity Project, Clean Water Action, Sierra Club. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>2</u>	CIVIL COVER SHEET filed. (Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Sierra Club.(Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Clean Water Action.(Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>6</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Environmental Integrity Project.(Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Environmental Protection Agency, re: <u>1</u> Complaint,. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. (Cmar, Thomas) (Entered: 09/28/2017)
09/28/2017	<u>8</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice <i>as Counsel for Plaintiffs</i> . Filing fee \$ 200.00, receipt number 0208-14183082. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. (Attachments: # <u>1</u> Affidavit and Exhibit A – Certificate of Good Standing, # <u>2</u> Text of Proposed Order)(Ozaeta, Mychal) Modified on 9/29/2017 (wb). (Entered: 09/28/2017)
09/29/2017		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>8</u> MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice <i>as Counsel for Plaintiffs</i>. Filing fee \$ 200.00, receipt number 0208-14183082. Motion and supporting papers to be reviewed by Clerk's Office staff.. The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of California;. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (wb) (Entered: 09/29/2017)
09/29/2017		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Valerie E. Caproni. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (rch) (Entered: 09/29/2017)

09/29/2017		Magistrate Judge Andrew J. Peck is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (rch) (Entered: 09/29/2017)
09/29/2017		Case Designated ECF. (rch) (Entered: 09/29/2017)
09/29/2017	<u>2</u>	ELECTRONIC SUMMONS ISSUED as to U.S. Environmental Protection Agency. (rch) (Entered: 09/29/2017)
10/04/2017	<u>10</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 11/3/2017 at 10:00 AM in Courtroom 443, 40 Centre Street, New York, NY 10007 before Judge Valerie E. Caproni. (Signed by Judge Valerie E. Caproni on 10/4/2017) (kgo) (Entered: 10/04/2017)
10/06/2017	<u>11</u>	MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. (Attachments: # <u>1</u> Declaration of Mychal R. Ozaeta, # <u>2</u> Text of Proposed Order)(Cmar, Thomas) (Entered: 10/06/2017)
10/10/2017		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>11</u> MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 10/10/2017)
10/10/2017	<u>12</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>11</u> Motion for Mychal R. Ozaeta to Appear Pro Hac Vice. (Signed by Judge Valerie E. Caproni on 10/10/2017) (kgo) (Entered: 10/10/2017)
10/16/2017	<u>13</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint, served. U.S. Environmental Protection Agency served on 10/4/2017, answer due 11/3/2017. Service was made by MAIL. Document filed by Waterkeeper Alliance, Inc.; Environmental Integrity Project; Clean Water Action; Sierra Club. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Cmar, Thomas) (Entered: 10/16/2017)
10/17/2017	<u>14</u>	NOTICE OF APPEARANCE by Anthony Jan-Huan Sun on behalf of U.S. Environmental Protection Agency. (Sun, Anthony) (Entered: 10/17/2017)
10/26/2017	<u>15</u>	JOINT LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar, Mychal R. Ozaeta, and Anthony J. Sun dated 10/26/2017 re: In Response to Court's October 4, 2017 Notice of Initial Pretrial Conference. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 10/26/2017)
10/30/2017	<u>16</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 10/30/2017 re: withdrawal of request to be heard first on the Court's November 3, 2017, 10:00 a.m. calendar. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 10/30/2017)
11/02/2017	<u>17</u>	ANSWER to <u>1</u> Complaint,. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 11/02/2017)
11/03/2017		Minute Entry for proceedings held before Judge Valerie E. Caproni: Initial Pretrial Conference held on 11/3/2017. Order to follow. (Court Reporter Thomas Murray) (Brantley, Michael) (Entered: 11/03/2017)
11/03/2017	<u>18</u>	ORDER. IT IS HEREBY ORDERED that the Defendant must inform the Plaintiffs and the Court, by November 9, 2017, of the date on which the responsive paper documents will be produced to Plaintiffs. IT IS FURTHER ORDERED that the Defendant must produce electronic documents in response to Plaintiffs' request by December 31, 2017. SO ORDERED. (Signed by Judge Valerie E. Caproni on 11/3/2017) (rjm) (Entered: 11/03/2017)
11/08/2017	<u>19</u>	NOTICE OF CHANGE OF ADDRESS by Thomas Joseph Cmar on behalf of All Plaintiffs. New Address: Earthjustice, 1101 Lake Street, Suite 405B, Oak Park, IL, 60301, (312) 257-9338. (Cmar, Thomas) (Entered: 11/08/2017)

11/09/2017	<u>20</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 11/9/2017 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 11/09/2017)
11/14/2017	<u>21</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 11/3/2017 before Judge Valerie E. Caproni. Court Reporter/Transcriber: Thomas Murray, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/5/2017. Redacted Transcript Deadline set for 12/15/2017. Release of Transcript Restriction set for 2/12/2018.(McGuirk, Kelly) (Entered: 11/14/2017)
11/14/2017	<u>22</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 11/3/17 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 11/14/2017)
11/22/2017	<u>23</u>	AMENDED ANSWER to <u>1</u> Complaint,. Document filed by U.S. Environmental Protection Agency. (Sun, Anthony) (Entered: 11/22/2017)
12/15/2017	<u>24</u>	CONSENT LETTER MOTION for Extension of Time addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 12/15/2017. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 12/15/2017)
12/15/2017	<u>25</u>	ORDER granting <u>24</u> Letter Motion for Extension of Time: Application GRANTED. (Signed by Judge Valerie E. Caproni on 12/15/2017) (jwh) (Entered: 12/15/2017)
04/02/2018	<u>26</u>	ORDER: WHEREAS the Court, on December 15, 2017, granted a requested extension to January 17, 2018 for Defendant's production of non-exempt, responsive documents [Dkt. 24]; and WHEREAS the parties have not provided a written update to the Court regarding this matter since the extension was granted; IT IS HEREBY ORDERED that the parties must inform the Court of the status of this matter by letter dated no later than April 9, 2018. (Signed by Judge Valerie E. Caproni on 4/2/2018) (ap) Modified on 4/3/2018 (ap). (Entered: 04/02/2018)
04/09/2018	<u>27</u>	JOINT LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar, Mychal R. Ozaeta, and Anthony J. Sun dated 04-09-2018 re: April 2, 2018 Order. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 04/09/2018)
04/09/2018	<u>28</u>	MEMO ENDORSEMENT on re: <u>27</u> Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 4/9/2018) (mro) (Entered: 04/10/2018)
05/07/2018	<u>29</u>	JOINT LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar, Mychal R. Ozaeta, and Anthony J. Sun dated May 7, 2018 re: Response to April 9, 2018 Order. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 05/07/2018)
05/09/2018	<u>30</u>	MEMO ENDORSEMENT on re: <u>29</u> Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 5/9/2018) (kgo) (Entered: 05/09/2018)
06/07/2018	<u>31</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/7/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 06/07/2018)
06/08/2018	<u>32</u>	MEMO ENDORSEMENT on re: <u>31</u> Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 6/8/2018) (mro) (Entered: 06/08/2018)
06/29/2018	<u>33</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/29/2018 re: status update. Document filed by U.S. Environmental Protection

		Agency.(Sun, Anthony) (Entered: 06/29/2018)
07/02/2018	<u>34</u>	MEMO ENDORSEMENT on re: <u>33</u> Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 7/2/2018) (kgo) (Entered: 07/02/2018)
07/27/2018	<u>35</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 7/27/2018 re: joint status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 07/27/2018)
07/27/2018	<u>36</u>	MEMO ENDORSEMENT on re: <u>35</u> Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 7/27/2018) (kgo) (Entered: 07/27/2018)
08/30/2018	<u>37</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 8/30/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 08/30/2018)
08/30/2018	<u>38</u>	MEMO ENDORSEMENT: on re: (29 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency, (37 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 8/30/2018) (ama) (Entered: 08/30/2018)
10/12/2018	<u>39</u>	LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar and Mychal Ozaeta, Counsel for Plaintiffs, dated 10/12/2018 re: Status Update. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 10/12/2018)
10/12/2018	<u>40</u>	MEMO ENDORSEMENT on re: (31 in 1:17-cv-09184-VEC) Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club, (39 in 1:17-cv-07400-VEC) Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 10/12/2018) (ne) (Entered: 10/12/2018)
11/30/2018	<u>41</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 11/30/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 11/30/2018)
11/30/2018	<u>42</u>	MEMO ENDORSEMENT: on re: (33 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency, (41 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 11/30/2018) (ama) (Entered: 11/30/2018)
12/27/2018	<u>43</u>	STANDING ORDER M10-468 The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (ks) (Entered: 01/02/2019)
12/27/2018		Case Stayed (rro) (Entered: 01/14/2019)
12/27/2018		Terminate Transcript Deadlines (rro) (Entered: 01/14/2019)
01/09/2019	<u>44</u>	NOTICE OF CHANGE OF ADDRESS by Thomas Joseph Cmar on behalf of Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. New Address: Earthjustice, 1010 Lake Street, Suite 200, Oak Park, IL, United States 60301, 312-257-9338. (Cmar, Thomas) (Entered: 01/09/2019)
02/08/2019	<u>45</u>	LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar and Mychal Ozaeta dated Feb. 8, 2019 re: status update. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 02/08/2019)
02/11/2019	<u>46</u>	MEMO ENDORSEMENT on re: (36 in 1:17-cv-09184-VEC) Letter filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club, (45 in 1:17-cv-07400-VEC) Letter filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club.

		ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 2/8/2019) (mro) (Entered: 02/11/2019)
04/05/2019	<u>47</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 4/5/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 04/05/2019)
04/05/2019	<u>48</u>	MEMO ENDORSEMENT: on re: (38 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application Granted. SO ORDERED. (Signed by Judge Valerie E. Caproni on 4/05/2019) (ama) (Entered: 04/05/2019)
05/03/2019	<u>49</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 5/3/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 05/03/2019)
05/03/2019	<u>50</u>	MEMO ENDORSEMENT: on re: (49 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency, (40 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 5/03/2019) (ama) (Entered: 05/03/2019)
06/03/2019	<u>51</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/3/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 06/03/2019)
06/04/2019	<u>52</u>	MEMO ENDORSEMENT on re: (51 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency, (42 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. The parties must submit a further joint status update in these cases no later than July 8, 2019. In their letter, the parties must propose a schedule for briefing any motion for attorney's fees and costs. Absent extraordinary circumstances, the Court will not entertain further requests to defer setting such a schedule. (Signed by Judge Valerie E. Caproni on 6/3/2019) (tro) (Entered: 06/04/2019)
06/26/2019	<u>53</u>	NOTICE OF CHANGE OF ADDRESS by Thomas Joseph Cmar on behalf of Waterkeeper Alliance, Inc.. New Address: Earthjustice, 311 S. Wacker Drive, Suite 1400, Chicago, Illinois, 60606, 312-500-2191. (Cmar, Thomas) (Entered: 06/26/2019)
07/08/2019	<u>54</u>	PROPOSED STIPULATION AND ORDER. Document filed by U.S. Environmental Protection Agency. (Sun, Anthony) (Entered: 07/08/2019)
07/09/2019	<u>55</u>	STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL: It is hereby Stipulated and agreed, by and between the parties, as follows: 1. The documents produced by EPA fully settle any and all claims Plaintiffs now have or may hereafter acquire against EPA or the United States of America ("United States"), or any department, agency, officer, or employee of EPA and/or the United States, related to or arising out of Plaintiffs' FOIA request at issue in this action. As soon as reasonably practicable, EPA shall pay Plaintiffs via electronic funds transfer to the IOLTA account of Plaintiffs' counsel the sum of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. 552(a)(4)(E), which sum Plaintiffs agree to accept in complete satisfaction of any and all claims by Plaintiffs for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. So Ordered. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order. All other provisions as further set forth in this order. So Ordered. (Signed by Judge Valerie E. Caproni on 7/8/2019) (js) (Entered: 07/09/2019)